

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff,

vs.

No. CV 2011-00117 CG/LFG

**THE UNKNOWN HEIRS, DEVISEES, OR
LEGATEES OF MANUELA R. BESERRA,
DECEASED; OCCUPANTS, WHOSE TRUE
NAMES ARE UNKNOWN, IF ANY,**

Defendants.

ORDER FOR PUBLICATION

THIS MATTER comes before the Court upon Plaintiff United States of America's *Motion for Publication* ('Motion') (Doc. 4). Plaintiff requests service by publication upon Defendant THE UNKNOWN HEIRS, DEVISEES, OR LEGATEES OF MANUELA R. BESERRA, DECEASED; OCCUPANTS, WHOSE TRUE NAMES ARE UNKNOWN. The Court, having considered the Motion, the relevant law, and otherwise being fully advised in the premises, **FINDS** the Motion to be well-taken and will be **GRANTED**.

A note and mortgage for the property commonly known as 905 56th Street NW, Albuquerque, N.M., 87105 was conveyed and assigned to the Secretary of Housing and Urban Development, an agency of the United States of America, in December of 2004. (Doc. 1 at 2-3). Plaintiff states that the death of Manuela R. Beserra - the original mortgagee - operates as a default on the mortgage since the property is no longer the principal residence of any surviving borrower. (Doc. 1 at 3; Doc. 1-3 at 4). Plaintiff therefore moves to foreclose upon the property. (Doc. 1 at 3-4).

Plaintiff states that there may be other parties who claim some interest or right in the real property, but that Plaintiff has been unable to determine the identity or location of such persons. (Doc. 1 at 3; Doc. 4). Therefore, pursuant to 28 U.S.C. § 1655, Plaintiff moves to effect service by publication. (Doc. 4). 28 U.S.C. § 1655 provides that this Court may order any absent defendants to appear in this action. However, where personal service is not practicable, the Court's order to appear must be published for a minimum of six weeks before such service shall be deemed valid. 28 U.S.C. § 1655. The Court finds that personal service is not practicable since Plaintiff has been unable to ascertain the identity or location of any defendants.

IT IS THEREFORE ORDERED that Plaintiff shall publish this Order in a newspaper of general circulation in the county where the action is pending not less than once a week for six consecutive weeks;

IT IS FURTHER ORDERED that the above-named defendant enter an appearance or otherwise plead within thirty (30) days after the final publication of this Order in accordance with 28 U.S.C. § 1655;

IT IS FURTHER ORDERED that if the above-named defendant fails to appear or plead within the time allowed, the Court shall proceed as if the absent defendant had been served with process within the State of New Mexico, but affecting only the property which is the subject of this action.



THE HONORABLE CARMEN E. GARZA
UNITED STATES MAGISTRATE JUDGE